

No. 12541-3Lab-67/34.—In pursuance of the provisions of section 17 the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the President of India is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Auto Bhan Industries, Mathura Road, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

REFERENCE NO. 82 OF 1967

Between

The workmen and the management of M/s Auto Bhan Industries, Mathura Road, Faridabad.

Present.—

Shri Darshan Singh, for the workman.

Shri R. C. Sharma for the management.

AWARD

Shri Mohd. Shakil Khan was employed as a turner in the respondent concern. His services were terminated. This gave rise to an industrial dispute and the Government of Haryana in exercise of the power conferred by clause (c) of sub-section (1) of Section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947 referred the following dispute to this Court for adjudication *vide* gazette notification No. 400-SF-III-Lab-67/26567 dated 5th September, 1967:—

Whether the dismissal of Shri Mohd. Shakil Khan was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties. In response to which the workman filed his statement of claim and the management filed their written statement.

It is not necessary to give a decision on the merits of the case because the parties have arrived at a settlement under which the claimant had received a sum of Rs 425 in full and final settlement of his claim. Five copies of the settlement purporting to bear the signatures of the parties and the witnesses were also filed.

It appears that after reaching this settlement the workman even did not bother to inform his representative who made a statement in this Court that he had no instructions with regard to this compromise. He was given an adjournment to enable him to obtain instructions from the workman and on the adjourned date the representative made a statement that he had obtained the instructions from the workman and that the dispute has been settled with the management as stated above. I make my award accordingly. No order as to costs.

The 21st December, 1967

P. N. THUKRAL,

**Presiding Officer,
Labour Court, Rohtak.**

No. 1791, dated the 25th December, 1967

This award is submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

**Presiding Officer,
Labour Court, Rohtak.**

No. 12542-3Lab-67/35.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the President of India is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Indian Metal Industries, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 83 of 1967

between

**THE WORKMEN AND THE MANAGEMENT OF M/S INDIAN METAL INDUSTRIES,
FARIDABAD.**

Present :

Shri Roshan Lal Sharma, for the workmen.

Shri R. C. Sharma for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947, the Governor of Haryana have referred the following industrial dispute to this Court for adjudication *vide* Gazette notification No. 370-SF-III-Lab-67, dated 7th September, 1967:—

Whether the termination of services of Shri Harish Chander Rastogi was justified and in order? If not, to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties. The workman in his statement of claim has alleged that the management has terminated his services without any prior notice or giving him a charge sheet and holding an inquiry. It is further alleged that the termination of his services is illegal, *mala fide* and it is a case of victimisation and unfair labour practice.

The management in their written statement have raised a number of preliminary objections. It is alleged that the reference is vague and this Court has no jurisdiction because the dispute between the parties does not fall within any of the items of second schedule of the Industrial Disputes Act, 1947. The reference is said to be premature because the services of the claimant have not been terminated so far. It is also stated that the Government have failed to display their opinion as to how and in what manner they have come to the conclusion that there is an industrial dispute between the workmen and the management. It is alleged that there is only an individual dispute and therefore the reference is bad in law. The demand notice is also said to be improper and illegal because the General Labour Union has no *locus standi* to represent the claimant or espouse his cause and it is also not a registered union. On merits it is pleaded that the claimant was laid off with effect from 18th June, 1967. He was required to present himself at the factory during the period of lay-off but he did not turn up and is being marked absent since then. It is pleaded that the management has no objection to take him back on duty but they reserve their right to take disciplinary action against him.

The pleadings of the parties gave rise to the following issues :—

1. Whether the reference is invalid and liable to be rejected for the reasons mentioned in the preliminary objection?
2. Whether the claimant was laid off with effect from 18th June, 1967, and thereafter he did not resume duty and that he is being marked absent?
3. If the above issues are found against the management whether the termination of services of the claimant is justified and in order? If not, to what relief is he entitled?

Issue No. 1

The management has led no evidence in support of their objection that the General Labour Union is not competent to represent and espouse the cause of the claimant. Under section 2 A of the Industrial Disputes Act the dismissal or discharge of an individual workman is now deemed to be an industrial dispute. The workman has alleged that his dismissal is not justified. *Prima facie* therefore there was an industrial dispute and the Government was justified in referring the dispute between the parties to this Court for adjudication. In my opinion there is no force in the preliminary objections raised on behalf of the management. The question as to whether the reference is premature because the services of the claimant have not been terminated so far would be decided while discussing the next two issues.

Issues Nos. 2 and 3

The management have produced their time-keeper Shri Om Parkash along with the attendance registers. After referring to the attendance registers the time-keeper has stated that the claimant was laid off from 18th June, 1967 to 31st July, 1967 and thereafter he is shown to be absent from 1st August, 1967 upto date. The time-keeper says that the claimant was never prevented from entering the factory. He has also produced a copy of the letter marked Ex. M 1 which was sent to the claimant and the other workers intimating to them that they were absent. The workman in his evidence also does not say that the management have formally terminated his services. He says that he was attending the factory of the respondent concern during the period of lay-off but on 18th July, 1967 the management did not permit him to enter the factory and stopped him at the gate and also refused to mark his presence. The claimant says that he was continuously attending the factory up to 31st July, 1967 although his presence was not being marked.

The question which has been referred to this Court for adjudication is whether the termination of the services of the claimant Shri Harish Chander Rastogi was justified and in order? If not, to what relief he is entitled? Thus it is not possible for this Court to express any opinion in these proceedings on the question whether after the lay-off the claimant absented himself from work or whether the management refused to allow him to resume duty.

The representative of the workman has submitted that the refusal of the management to permit the workman to enter the factory and permit him to work virtually amounts to termination of his services. In my opinion this contention is not correct. The workman continued to be in the service of the respondent till his services are formally terminated. Since according to the evidence led in this Court it is not the case of any party that the services of the claimant have been terminated and so the question whether the termination of the services of the claimant is justified or not does not arise and it must be held that the reference is premature and for this reason the claimant is not entitled to any relief in these proceedings. As I am not giving any decision on the merits of the case, the parties are left to bear their own costs.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Rohtak.

Dated 19th December, 1967.

No. 1790, dated 25th December, 1967

This award is submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Rohtak.

The 3rd January, 1968

No. 12300-3Lab-67/37188.—In supersession of the Punjab Government, Labour and Printing Department notification No. 7715-LP-52/7535, dated the 19th September, 1952, and in exercise of the powers conferred by section 16 of the Workmen's Compensation Act, 1923, the President of India hereby directs that an annual return in the form set forth in the Schedule hereto annexed shall be furnished by every person employing workmen who are :—

- (A) employed in a place which is a factory within the meaning of clause (m) of section 2 of the Factories Act, 1948 ;
- (B) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act ;
- (C) employed otherwise than in clerical capacity or in a factory or mine in connection with the operation or maintenance of a tramway as defined in section 3 of the Indian Tramways Act, 1886 ;
- (D) employed in any of the following categories but not falling under any of the foregoing heads (A), (B) and (C) :—
 - (i) otherwise than in a clerical capacity in the service of any of Port Trust or Port Commission within the limits of any port subject to the Indian Ports Act, 1908 ;
 - (ii) in the manufacture or handling of explosives in any premises wherein or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ;
 - (iii) in the service of any fire-brigade ;
 - (iv) otherwise than in a clerical capacity in connection with operations for winning natural petroleum or natural gas ;
 - (v) otherwise than in a clerical capacity in any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ;
 - (vi) otherwise than in a clerical capacity on the generating, transforming or supplying of electrical energy ;
 - (vii) in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures.

2. The return, which shall relate to a calendar year, shall be furnished on or before the 1st February following the year to which the return relates.

3. The return shall be signed (a) by the employer, or where there is more than one employer, by any employer, or (b) by any person directly responsible to the employer, or employers for the management of the establishment to which it relates.

4. The returns shall be furnished in duplicate to the Labour Commissioner, Haryana.

5. Notwithstanding anything hereinbefore contained, the aforesaid return is not required to be submitted by any employer in respect of compensation paid on account of injuries suffered by his workmen during any period for which his liability under the Act has been insured with a Mutual Indemnity or other Insurance Company or during which he is member of an association of employers which deals on behalf of its members with claims for compensation under the Act, if such company or association has with the consent of the State Government undertaken to submit returns as nearly as may be in the form set forth in the Schedule hereto annexed in respect of the employers insured with such company or belonging to such association. Such undertakings shall provide that the said returns shall be submitted not later than the 1st February, or at the discretion of and subject to, such conditions as the State Government may impose, the 1st March following the year to which they relate :—

Stereo D.I. No. 3.

SCHEDULE

WORKMEN'S COMPENSATION

Return relating to period from _____ to 31st December, 19 _____

State	_____	} (To be omitted in case of railways)
District	_____	
Town or village	_____	
Post Office	_____	

Name of Establishment (1) _____

Nature of work (2) _____

Number of workmen employed per day (3)

{ Adults _____
Minors _____

Accidents

Number of cases which occurred during the year			Number of cases of injuries in respect of which final compensation has been paid during the year (4)			Amount of compensation paid (5)			Nature of disease (9)
Deaths	Perma- nent dis- ablement	Tempo- rary dis- ablement	Deaths	Perma- nent dis- ablement	Tempo- rary dis- ablement (8)	Deaths	Perma- nent dis- ablement	Tempo- rary dis- ablement	
1	2	3	4	5	6	7	8	9	10
Adults ..									
Minor ..									

Occupational Diseases (8)

Number of cases of diseases in respect of which final compensation has been paid during the year (4)			Amount of compensation paid (5)		
Deaths	Permanent disablement	Temporary disablement (6)	Deaths	Permanent disablement	Temporary disablement
11	12	13	14	15	16
Adults ..					
Minor ..					

Dated _____ 19 .

(Signed) _____

(Designation) _____

(1) In cases where more establishments than one are owned by the same employer, a separate return should be furnished for each establishment. When in any establishment the workmen employed fall in two or more of the distinct categories to which the return relates [e.g., in the case of a tea estate categories A and E (V) a separate sheet should be used for the statistics of each category].

(2) Enter the class of establishment according to the process or product, e.g., cotton weaving and spinning factory, coal mine, plantations, building and construction, Municipalities and Local Boards, Miscellaneous.

(3) Includes all employees whether permanent or temporary who would, in the case of accidents, be eligible for compensation under the Act, and for whom a return is required to be furnished. Numbers employed should be shown even if there are no payments of compensation to report.

(4) Include only those cases in which the final payment of a compensation was made during the year. A deposit with the Commissioner should be treated as a payment by the employer.

(5) Include all compensation paid in respect of the cases mentioned in foot-note a-4 whether such compensation was paid during the year or previous to its commencement. Exclude all payments in cases in which the final payment had not been made by the end of the year to which the return relates.

(6) Only such disablements as last for more than seven days should be shown [section 4(1) of the Act].

(7) Where the benefit actually allowed (e.g., hospital leave on full pay) is in excess of the compensation admissible under the Act, only the amount of the compensation so admissible should be entered in the return.

(8) Viz., anthrax, lead poisoning, phosphorus poisoning, mercury poisoning, benzene poisoning, cheeme, ulceration and compressed air illness only.

(9) Enter separately each of the disease specified in foot-note 2 which resulted in cases in respect of which compensation was paid.

ORDER

Whereas differences have arisen regarding the interpretation of clause 4 of agreement, dated 8th June, 1967 and clause 13 of agreement, dated 26th October, 1967 arrived at between the management of Haryana Roadways and its workmen over the question of calculation of allocable surplus if the amount in the statement of accounts (Annexure 'A') has been prepared by the Haryana Roadways in accordance with the provisions of Payment of Bonus Act, 1965.

Now, therefore, in exercise of the powers conferred under section 36 (A) of the Industrial Disputes Act, 1947, the President of India is pleased to refer to the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh the following matter for clarification:—

“Whether the figures of allocable surplus as given in Annexure 'A' prepared by the Haryana Roadways, Haryana for the period from 1st November, 1966 to 31st March, 1967 are calculated on the Payment of Bonus Act, 1965. If not, what should be the correct figure of allocable surplus and with what details?”

ANNEXURE 'A'

Figures of allocable surplus of Haryana Roadways on the basis of pro forma Accounts for the period from 1st November, 1966 to 31st March, 1967.

Serial No.	Particulars	Chandigarh	Gurgaon	Ambala	Total
		(audited)	(unaudited)	(unaudited)	
		Rs	Rs	Rs	Rs
1	Gross profit	4,90,764	6,38,654	11,88,309	23,17,727
2	Expenditure—				
	(a) Road Tax (actual)	63,532	2,86,062	1,87,479	5,37,073
	(b) Income-tax (65 per cent)	2,77,700	2,29,184	6,50,540	11,57,424
	Total	3,41,232	5,15,246	8,38,019	16,94,497
3	Net profit	1,49,532	1,23,408	3,50,290	6,23,230
4	Deductions as per rule 6(d) viz. 8.5 per cent of Capital	1,07,500	5,61,201	3,15,975	9,84,676
5	Surplus	42,032	(—) 4,37,793	34,315	(—) 3,61,446
6	Allocable surplus

R.I.N. AHOOJA,
Secretary to Government, Haryana,
Labour & Employment Departments.